

Briefing Report No:

Public Agenda Item: **No**

Title: Licensing Act 2003 – Applications for Transfer of the Premises Licence Holder and to Vary the Designated Premises Supervisor for Jackz Bar, Parkham Road, Brixham, Devon, TQ5 9BU

Wards Affected: **Brixham**

To: **Licensing Sub -  
Committee**

On: **28<sup>th</sup> April 2022**

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## 1. Key points and Summary

- 1.1 To consider and determine two applications, in respect of the Premises detailed above. The first application is to Transfer the Premises Licence, and the second application seeks to varying the DPS (Designated Premises Supervisor). In respect of both applications an objection Notice has been received from the Police Alcohol Licensing Officer, detailing concerns in that there are exceptional circumstances in relation to the proposed person which may lead to the Prevention of Crime and Disorder Licensing Objective being undermined. They therefore request that both applications are refused. The Notice is shown in Appendix 3.
- 1.2 The Sub-Committee must consider the effects of the applications against all the Corporate Priorities within the Community Plan.
- 1.3 The matter must be considered on its merits having received details of the issues arising either at a hearing or by written Representation if all parties have agreed that a hearing is not necessary. A decision must be made either:-
  - (a) to grant the applications or,
  - (b) having regard to the Notice, reject the applications if it is considered that it is necessary for the promotion of the Prevention of Crime and Disorder Licensing Objective to do so.
- 1.4 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Applicant, the proposed Premises Supervisor and the Police on determination of the matter.

- 1.5 Where an application is received to Transfer a Premises Licence, it is necessary for the existing Licence Holder, where able to do so, to provide written consent to give permission for the licence to be transferred. This consent forms part of the application form and therefore has been provided. Where a Premises Licence has been issued under the Act to permit regulated activities to be provided at any Premises, one of which is the supply of alcohol, it is necessary for the holder of the Licence to also designate a Premises Supervisor. This can be the holder of the Licence or another person. In the latter case, the individual concerned must consent to the application being made.
- 1.6 The applications both include a request that the Transfer and Vary DPS applied for should take immediate effect.

## **2. Introduction**

- 2.1 Applications have been made under Section 37 and section 42 of the Act for a Transfer of the Premises Licence and to Vary the DPS at the Premises detailed above. Details of the applications are shown in Appendix 1 and 2.
- 2.2 The Council as Licensing Authority, is satisfied that the Applicant has met the administrative requirements of Section 42(5) but is unable to grant the applications as a Notice has been received from the Police under Section 42(6). The Authority is also satisfied that such Notice has been received within the appropriate timescale and has not been subsequently withdrawn. Details of the Notice are shown in Appendix 3.
- 2.3 The Authority is required to conduct a hearing by the provisions of Section 44(5) unless all parties agree that this is not necessary.
- 2.4 Appropriate Notices have been issued to all parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including, where appropriate, details of the Representation and the procedure to be followed at the hearing.
- 2.5 If the applications are refused, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 1 of Schedule 5, to the Applicant.
- 2.6 If the applications are granted, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 6(2) of Schedule 5 to The Chief Officer of Police (who had given an appropriate Notice which was not withdrawn).
- 2.7 Following such Appeal, the Magistrates' Court may:-
- (a) dismiss the appeal,
  - (b) substitute for the decision appealed against any other decision which could have been made by the licensing authority, or
  - (c) remit the case to the licensing authority to dispose of it in accordance with the direction of the court,
  - (d) and may make such order as to costs as it thinks fit.

**Steve Cox**  
**Environmental Health Manager (Commercial)**

### **Appendices**

- Appendix 1            A copy of the Premises Licence Transfer Application form.
- Appendix 2            A copy of the Vary DPS Application form.
- Appendix 3            The Notice received from the Police
- Appendix 4            Supporting Documents from the Police

### **Documents available in members' rooms**

None

### **Background Papers:**

The following documents/files were used to compile this report:

Torbay Council Licensing Policy 2016-2021.